

THE COMMONWEALTH OF MASSACHUSETTS  
OFFICE OF CONSUMER AFFAIRS AND BUSINESS REGULATION

**DEPARTMENT OF  
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MEMORANDUM

TO: Competitive Local Exchange Carriers with Consolidated Arbitrations  
Performance Standards in Interconnection Agreements,  
with Verizon New England Inc. d/b/a Verizon Massachusetts and  
Other Interested Persons

FROM: Joan Foster Evans, Hearing Officer

DATE: January 22, 2004

RE: Consolidated Arbitrations Performance Standards  
Request for Comments  
Consolidated Arbitrations, D.P.U./D.T.E. 96-73/74, 96-75, 96-80/81, 96-83,  
96-94  
Performance Assurance Plan - D.T.E. 03-50

CC: D.T.E. 03-50 Service List  
Mary Cottrell, Secretary  
Andrew O. Kaplan, General Counsel  
Michael Isenberg, Director, Telecommunications Division  
Candice Allgaier, Analyst, Telecommunications Division  
Paula Foley, Assistant General Counsel

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The Department of Telecommunications and Energy ("Department") is requesting comment from those competitive local exchange carriers ("CLECs") whose interconnection agreements include performance standards established by the Department's Consolidated Arbitrations series of orders, Verizon New England Inc. d/b/a Verizon Massachusetts

(“Verizon”) and other interested persons.<sup>1</sup> The comments should address whether the Department should terminate Verizon’s obligations under the Consolidated Arbitrations performance standards in favor of the performance standards and remedies set out in the Department’s Carrier to Carrier (“C2C”) Guidelines and the Performance Assurance Plan (“PAP”).

## I. BACKGROUND

In Consolidated Arbitrations, D.P.U./D.T.E. 96-73/74, 96-75, 96-80/81, 96-83, 96-94-Phase 3-F (1999) (“Phase 3-F Order”), the Department established standards to measure the wholesale performance of Verizon.<sup>2</sup> At the time the Consolidated Arbitrations performance standards and remedies were established, the Department had not yet adopted the C2C Guidelines or PAP.<sup>3</sup> When the Department did adopt the C2C Guidelines, many CLECs were receiving reports and payments under the Consolidated Arbitrations performance standards pursuant to their interconnection agreements, and the Department decided to allow CLECs to choose to receive performance payments under either the Consolidated Arbitrations plan, or the PAP.<sup>4</sup> Currently, there are CLECs receiving payments from both plans (though not cumulatively).

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<sup>1</sup> Consolidated Arbitrations, D.P.U./D.T.E. 96-73/74, 96-75, 96-80/81, 96-83, 96-94.

<sup>2</sup> In the Phase 3-F Order, the Department established a performance plan for Verizon containing both performance standards and remedies (*i.e.*, penalties) for substandard performance. On January 7, 2004, the Department approved changes to the Consolidated Arbitrations performance standards filed by Verizon in October and December 2003.

<sup>3</sup> As part of the Department’s investigation into Verizon’s application to provide in-region, long-distance service, D.T.E. 99-271, the Department adopted the C2C Guidelines in January 2000, and the PAP went into effect in April 2001.

<sup>4</sup> The Department stated that CLECs whose interconnection agreements incorporated the performance standards and credits set forth in the Consolidated Arbitrations will receive the higher of the credits calculated under its interconnection agreements or the PAP, unless the CLEC chooses not to participate in the PAP, in which case the CLEC will continue to receive credits under the Consolidated Arbitrations. Performance Assurance Plan, D.T.E. 99-271, at 12, Order on Motions for Clarification and Reconsideration (November 21, 2000).

## II. SINGLE SET OF PERFORMANCE STANDARDS AND REMEDIES

The Department is considering whether the separate Consolidated Arbitrations performance standards should be eliminated, and Verizon's performance be measured by a single set of performance standards and remedies (i.e., the C2C Guidelines and the PAP). At this point in time, administering two performance standards plans may be an unnecessary burden on Department Staff, the CLEC community, as well as Verizon.

The Department notes several differences between the Consolidated Arbitrations performance standards and remedies plan, and the C2C Guidelines and PAP. The standards in the C2C are more comprehensive than those in the Consolidated Arbitrations plan. Moreover, the C2C Guidelines are subject to ongoing assessment and updating through the Carrier Working Group in New York; the Consolidated Arbitrations standards are more static. Also, the C2C Guidelines and the PAP were developed with the participation of a larger and more diverse group of CLECs and at a time when CLECs and Verizon had more experience with provisioning issues than were the Consolidated Arbitrations performance standards and penalties.

## III. REQUEST FOR COMMENTS

The Department requests comment on whether the Department should terminate Verizon's obligations under the Consolidated Arbitrations performance standards in favor of the performance standards and penalties set out in the C2C Guidelines and the PAP. Commenters<sup>5</sup> should address, at a minimum, the following issues:

- (1) Whether there are strong reasons to maintain a separate set of performance standards and remedies under the Consolidated Arbitrations plan;
- (2) Whether there are any legal or practical impediments to eliminating the separate Consolidated Arbitrations performance plan;
- (3) A procedure to phase out the Consolidated Arbitrations performance standards, if the Department determines that this is the appropriate approach.<sup>6</sup>

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<sup>5</sup> A list of CLECs whose interconnection agreements include Consolidated Arbitrations performance standards is attached to this request for comments.

<sup>6</sup> As the Consolidated Arbitrations performance standards are part of CLEC interconnection agreements, elimination of those standards would require a contractual change. Carriers would be required to file those interconnection agreement changes  
(continued...)

The Department invites interested persons to file written comments no later than the close of business, **Thursday, February 12, 2004**. Reply comments shall be filed by **Thursday, February 26, 2004**. One original and (3) three copies of initial and reply comments must be filed with:

Mary Cottrell, Secretary  
Department of Telecommunications and Energy  
One South Station, 2<sup>nd</sup> Floor  
Boston, MA 02110  
RE: Consolidated Arbitrations

In addition to filing a paper copy of written comments, commenters must, if possible, file comments in electronic format by e-mail attachment to [dte.efiling@state.ma.us](mailto:dte.efiling@state.ma.us) (copy to [Joan.Evans@state.ma.us](mailto:Joan.Evans@state.ma.us)). The electronic filing must specify: (1) the case caption; (2) the docket number (D.P.U./D.T.E. 96-73/74, 96-75, 96-80/81, 96-83, 96-94 ); (3) the name of the person or company submitting the filing; and (4) a brief descriptive title of document (e.g., comments). The electronic filing should also include the name, title, and phone number of a person to contact in the event of questions about the filing. Text responses should be written in either Word Perfect (naming the document with a ".wpd" suffix) or in Microsoft Word, (naming the document with a ".doc" suffix). Data or spreadsheet responses should be compatible with Microsoft Excel. Documents submitted in electronic format, as well as Verizon's filing, will be posted on the Department's website, <http://www.mass.gov/dpu/> under the D.P.U./D.T.E. 96-73/74, 96-75, 96-80/81, 96-83, 96-94 and the D.T.E. 03-50 docket numbers.

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<sup>6</sup>(...continued)

with the Department for approval.